

REMARKS

In the First Office Action, the Examiner rejected claims 1-99 for obviousness-type double patenting over claims 1-45 of US 6,044,471, claims 1-21 of US6,460,142, claims 1-22 of US 6,502,195, claims 1-20 of US6,446,211, claims 1-40 of US 6,799,277, claims 1-19 of US6,795,925, claims 1-19 of US 6,792,548, claims 1-12 of US 6,792,549, claims 1-126 of US 6,813,717, claims 1-140 of US 6,857,078, claims 1-176 of US6,785,825, claims 1-98 of US 6,813,718, and claims 1-40 of US 6,986,063. The Examiner provisionally rejected claims 1-99 for obviousness-type double patenting over claims 1-95 of copending S/N 10/605,063, claims 1-88 of copending S/N 10/605,064, claims 1-97 of copending S/N 10/605,065, and claims 1-94 of copending S/N 10/605,067. The Examiner rejected claims 1-99 under 35 USC §102(b) as being anticipated by US 5,495,411 to Ananda.

Reconsideration and re-examination of the application as amended considering the following remarks is respectfully requested.

Information Disclosure Statement

Applicant submits herewith an Information Disclosure Statement, U.S. District Court Docket sheets, Memorandum Opinion and Order, and fee authorization calling the Examiner's attention to litigation of related U.S. Patent Nos. 6,044,471 (claim 32) and 6,785,825 (claims 44, 131) in the Eastern District of Texas, case Nos. 6:06-cv-00142-LED, 6:06-cv-00258-LED, 6:06-cv-00335. In this litigation, defendants alleged that the '471 and '825 patents were invalid/unenforceable due to prior art, inventorship, and inequitable conduct including failure to disclose material prior art during prosecution. As described by the Court in the Memorandum Opinion and Order, the jury and the Court did not find sufficient evidence to support any of these allegations.

To avoid inundating the Examiner with documents to consider, most of which may be irrelevant, Applicant has not provided the Examiner with copies of all of the documents filed in the litigation. However, Applicant will promptly provide any additional document(s) or information requested by the Examiner

(not filed under seal) for consideration in this application or any related applications in determining patentability of any pending claims.

Additional litigation was initiated on 8/21/06 in the Eastern District of Texas, case # 6:06-cv-00369-LED, alleging patent infringement of related U.S. Patent Nos. 6,044,471 and 6,785,825. Docket sheets have also been provided for this case, although substantive proceedings have not yet begun.

Telephone Interview

Applicant appreciates the opportunity afforded by the Examiner to discuss the rejections during a telephone interview on August 9, 2006, including distinguishing features of Applicant's invention relative to US 5,495,411 to Ananda.

Obviousness-type Double Patenting

The Examiner rejected all claims 1-99 under the judicially created doctrine of obviousness-type double patenting relative to a number of patents and pending applications totaling 1,112 claims. While Applicant does not necessarily agree with the Examiner's rejection, Applicant submits herewith a terminal disclaimer to obviate the Examiner's rejection and advance prosecution.

Rejection Under 35 USC §102(b)

The Examiner rejected claims 1-99 as being anticipated by Ananda (US5,495,411). Applicant respectfully disagrees and traverses the Examiner's rejection as Applicant respectfully submits that a number of features of Applicant's claimed invention are neither disclosed nor suggested by Ananda '411, some of which are described below. However, Applicant has amended independent claims 1, 41, and 78 to more particularly point out Applicant's invention.

In particular, claims 1, 41, and 78 have been amended to more particularly point out that Applicant's invention does not require a continuous connection with a remote authorized representative entity. In contrast, Ananda '411 discloses a secure software rental system that allows the user device to operate the software only while electronically connected to the central rental

facility (Abstract) or while a continuous communication link is maintained between the first (rental facility) and second (user) computers by exchanging data at predetermined intervals, such as 30 seconds. (Col 2, ll, 48-50), for example.

As such, Applicant respectfully submits that the invention as claimed is patentable over Ananda '411 and requests the Examiner to reconsider and withdraw the rejection under 35 USC §102(b).


Summary

Applicant has made a genuine effort to respond to the Examiner's rejections to advance prosecution of this application. Applicant respectfully submits that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested.

Please charge the fee for a one-month extension of time (small entity) of \$225.00, the fee for consideration of the Information Disclosure Statement of \$180.00, and the fee for the Terminal Disclaimer of \$65.00 (small entity) to **Deposit Account 50-2841 (Bir Law, PLC)**.

The Examiner is requested to telephone the undersigned to discuss resolution of any remaining issues that may be necessary to place this case in condition for allowance.

Respectfully submitted:


David S. Bir
Registration No. 38,383

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Bir Law, PLC
13092 Glasgow Ct.
Plymouth, MI 48170-5241

Telephone: 734-927-4531
Fax: 734-468-4257